

§ 214.303

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local assistance; fair housing; housing search assistance; landlord tenant laws; lease terms; rent delinquency; and

(5) Homeless assistance, including, but not limited to: Information regarding emergency shelter, other emergency services, and transitional housing.

§ 214.303 Performance criteria.

To maintain HUD-approved status, a participating agency must meet the following requirements:

(a) *Approval status.* Agencies must continue to comply with approval requirements in § 214.103.

(b) *Workload.* During each 12-month period, the participating agency must provide housing counseling to at least 30 clients. Agencies that offer only housing counseling services limited to reverse mortgages, including home equity conversion mortgages (HECMs), are exempt from this requirement.

(c) *Reporting.* The agency must submit to HUD complete, accurate, and timely activity reports, as described in § 214.317.

(d) *Agency's housing counseling work plan.* The agency must implement the housing counseling work plan and demonstrate reasonable achievement of the outcome objectives approved by HUD, as described in § 214.103(k).

(e) *Client referrals from HUD and other participating agencies.* Except as described in this paragraph, all clients who contact the agency as a result of these referrals must be served. In cases where the agency does not offer the unique services requested by the client or does not have sufficient resources, the agency must refer the client to another participating agency, preferably in the area, or, failing the availability of a participating agency, must make a reasonable effort to refer the client to another agency, that can help the client meet his or her needs.

(f) *Conflicts of interest.* (1) A director, employee, officer, contractor, or agent of a participating agency shall not engage in activities that create a real or apparent conflict of interest. Such a conflict would arise if the director, employee, officer, contractor, agent, his or her spouse, child, general partner, or organization in which he or she serves

as employee (other than with the participating counseling agency), or with whom he or she is negotiating future employment, has a direct interest in the client as a landlord, broker, or creditor, or originates, has a financial interest in, services, or underwrites a mortgage on the client's property, owns or purchases a property that the client seeks to rent or purchase, or serves as a collection agent for the client's mortgage lender, landlord, or creditor.

(2) A director, employee, officer, contractor, or agent of a participating agency shall not refer clients to mortgage lenders, brokers, builders, or real estate sales agents or brokers in which the officer, employee, director, his or her spouse, child, or general partner has a financial interest, neither may they acquire the client's property from the trustee in bankruptcy or accept a fee or any other consideration for referring a client to mortgage lenders, brokers, builders, or real estate sales agents or brokers.

(3) A director, employee, officer, contractor, or agent of a participating agency or any member of his or her immediate family shall avoid any action that might result in, or create the appearance of, administering the housing counseling operation for personal or private gain; providing preferential treatment to any organization or person; or undertaking any action that might compromise the agency's ability to ensure compliance with the requirements of this part and to serve the best interests of its clients.

(4) HUD may investigate agency practices and may take action to inactivate or terminate the agency's approval or participation in the Housing Counseling program.

(5) Participating agencies must notify HUD of conflicts of interest not later than 15 calendar days after the conflict occurred and report to HUD on the corrective action taken to cure the immediate, and avoid future, conflicts.

(g) *Disclosure requirements.* A participating agency must provide to all clients a disclosure statement that explicitly describes the various types of services provided by the agency and any financial relationships between this agency and any other industry

partners. The disclosure must clearly state that the client is not obligated to receive any other services offered by the organization or its exclusive partners. Furthermore, the agency must provide information on alternative services, programs, and products.

(h) *Staff and supervision.* The agency must employ staff trained in housing counseling, and at least half the counselors must have at least 6 months of experience in the job they will perform in the agency's Housing Counseling program. Supervisors of the housing counselors must periodically monitor the work of the housing counselors by reviewing client files with the housing counselor to determine the adequacy and effectiveness of the housing counseling. The agency must document these monitoring activities and make the documentation available to HUD upon request.

(i) *Funding.* The agency must maintain a level of funds that enables it to provide housing counseling to at least the required workload of clients every year, whether or not the agency receives HUD funding.

§214.305 Agency profile changes.

Participating agencies must notify HUD within 15 days when any of the following occurs:

(a) The agency loses or changes its tax-exempt, nonprofit status.

(b) The agency no longer complies with local and state requirements.

(c) Changes occur in any of the items below:

(1) Address(es) of the agency's main office and the address(es) of its branches and affiliates;

(2) Staff personnel responsible for the Housing Counseling program, such as the housing counselors and management staff;

(3) Telephone numbers of the main office, affiliates, and branches; or

(4) Any other aspect of the agency's purpose or functions that may impair its ability to comply with these regulations or the applicable grant agreement (e.g., lack of qualified housing counselors).

§214.307 Performance review.

(a) HUD may conduct periodic on-site or desk performance reviews of all participating agencies.

(b) The performance review will consist of a review of the participating agency's compliance with all program requirements, including applicable civil rights requirements, and the agency's level of success in delivering counseling services.

§214.309 Reapproval and disapproval based on performance review.

Based on the performance review, HUD may determine whether to renew the approval unconditionally or conditionally, temporarily change status to inactive, or terminate approval or participation of the agency.

(a) *Unconditional Reapproval.* If the agency is in full compliance with the performance criteria of this part, HUD may reapprove the agency unconditionally for up to 3 years.

(b) *Conditional Reapproval.* If the agency fails to meet the performance criteria, but the failure does not seriously impair the agency's counseling capability as required in this part, HUD may extend the agency's approval or participation for up to 120 calendar days.

(c) *Inactive status.* HUD may temporarily change an agency's status to inactive, as provided in §214.200.

(d) *Follow-up Review.* HUD may conduct a follow-up review to determine if the deficiencies have been corrected.

(e) *Termination of HUD Approval.* When HUD determines that the agency's program deficiencies seriously impair the agency's ability to comply with this part, HUD may terminate approval or participation of the agency immediately.

(f) *Appeal.* If HUD does not reinstate the approval, or terminates participation, the agency may file an appeal, as prescribed under §214.205.

§214.311 Funding.

(a) *HUD funding.* HUD approval or program participation does not guarantee funding from HUD. Funding for the Housing Counseling program depends on appropriations from Congress and are awarded competitively under